

For example, if it takes a NYT representative only 6 seconds to retrieve a customer's service record from NYT's systems (or to determine available installation dates, or to identify features and services available at the customer's location) while a customer is on the line, but it takes a CLEC representative substantially longer to retrieve the same information, the CLEC will be receiving inferior service and its customers will justifiably be dissatisfied with the CLEC for matters that are within NYT's control. The situation is exacerbated in cases when it takes the CLEC so long to obtain necessary information that it must call the customer back at a later time.

Moreover, if the information CLEC representatives receive from NYT's systems is less accurate than the information available to NYT representatives, customers will view the CLEC as unreliable. In addition, in such circumstances, it will take the CLEC more time to process (or re-process) customers' information requests, and it will consume additional CLEC resources. Perhaps even more important, consumers will have to spend more time in dealing with the CLEC.

**Q. WHY DO CLECS NEED MEASUREMENTS REGARDING BILLING INFORMATION?**

**A.** If NYT's billing information is not supplied as promptly to the CLEC's operations as it is supplied to NYT's retail operations, CLECs may be unable to render timely

bills, and they will not be able to answer consumers' billing and service inquiries in a comparable manner. If the billing data NYT provides to CLECs is not as accurate as the data provided to its retail billing operations, CLECs will render incorrect bills, or provide inaccurate billing information, to their customers. Both of these disparities affect a CLEC's business reputation with consumers and make it more difficult for the CLEC to provide a competitive service.

**Q. WHAT ARE YOUR CONCERNS REGARDING THE LACK OF  
DISAGGREGATED SERVICE PROVISIONING MEASUREMENTS?**

A. NYT's failure to propose appropriate standards for service disaggregation makes it impossible to determine whether NYT's provisioning intervals for its own customers are comparable with the provisioning intervals it provides to CLEC customers. Without proof of comparable provisioning intervals, NYT cannot demonstrate that its provisioning processes meet the nondiscrimination requirements of the Communications Act. More important, CLECs will be unable to assure their customers that they will receive comparable provisioning to NYT customers.

For example, it is impossible to tell from Mr. Coffey's affidavit how NYT will disaggregate service measurements when a customer requests multiple types of services on a single order. If a business customer orders both a PBX trunk and a standard business line on the same order, NYT

should measure completion times for the latter against other orders for standard business lines in the same area.

Similarly, NYT should measure installation times for the PBX trunk with installation times for similar trunks in the same area. A hybrid measure would make it difficult, if not impossible, to determine whether NYT is providing nondiscriminatory installation intervals to CLECs.

Furthermore, these measures should be based on when a CLEC sends a complete and accurate order to NYT, not when NYT subsequently enters the order into its systems.

Q. ARE THERE OTHER CRITICAL OMISSIONS IN NYT'S PROPOSALS?

A. Yes. NYT has not proposed three measurements that are critical to determining the commercial reasonableness of its ordering and provisioning processes, including:

- (1) accuracy of orders and provisioning;
- (2) timeliness in reporting the status of orders; and
- (3) the number of held orders (i.e., the order backlog).

Q. WHY ARE MEASUREMENTS NEEDED FOR THE ACCURACY OF ORDER HANDLING AND PROVISIONING?

A. The need for accuracy in the ordering and provisioning process is obvious, yet NYT has not proposed any measures that would compare NYT's accuracy in implementing orders for its own retail customers with its accuracy in performing the same tasks for CLECs. This is especially critical at the present time, in light of NYT's admissions that (i) all CLEC

orders require manual processing and (ii) that it does not even have plans to provide fully comparable electronic processing of CLEC orders until the end of 1997.

Q. WHY IS IT NECESSARY TO MEASURE THE TIMELINESS OF INFORMATION ON ORDER STATUS?

A. There are several reasons why it is critical for NYT to demonstrate that it can provide CLEC representatives with equivalent information regarding the timeliness of its reporting on the status of orders. First, without timely Firm Order Confirmations ("FOCs"), CLECs cannot be certain that the ordering information they have provided to their customers is correct. Considering that NYT representatives typically receive instantaneously the information that CLECs will be provided on FOCs, it is critical that NYT measure the time it takes to provide FOCs to CLECs.<sup>10</sup>

Second, CLECs need information on the timeliness of order rejects, because NYT cannot even issue an FOC until an order has been accepted. If CLECs experience longer times to receive rejects than NYT, CLEC customers will be more likely to miss the expected installation dates for their services.

---

<sup>10</sup> NYT representatives receive the information contained in FOCs directly from NYT's own systems. Accordingly, NYT representatives do not receive FOCs, because they have no need for them. Rather, FOCs are the mechanism an incumbent LEC uses to approach parity in providing CLECs with equivalent information regarding the status of customers' orders.

CLECs also need comparable information to NYT on jeopardy situations (i.e., circumstances in which NYT learns that it may be unable to fulfill its commitments in an FOC). These are essential data necessary to provide good customer service, and they should be available to CLECs as timely as they are available to NYT service representatives.

Q. WHY DO CLECS NEED INFORMATION ON ORDER BACKLOGS?

A. It is important that NYT collect and measure data on its handling of ordering and provisioning backlogs. Such data is necessary to demonstrate that NYT is not favoring its own retail operations when it experiences periods of unanticipated heavy demand. Such information is also useful in assessing the potential for future capacity limitations in NYT's systems. Furthermore, order backlogs can have significant impacts on a CLEC's ability to obtain and serve customers.

Q. HAS NYT PROPOSED A REASONABLE MEASUREMENT FOR DETERMINING WHETHER ORDERS FOR RESALE ARE COMPLETED IN A NONDISCRIMINATORY AND COMMERCIALY REASONABLE MANNER?

A. No. Mr. Coffey (p. 9) states that NYT intends to use a 5-day period "as an indicator of speed of service delivery to resellers' end users and for NYNEX New York's own end users." This measure, which appears to be based on the maximum provisioning period under the Commission's current rules for NYT, is the wrong measure. NYT cannot show that its provisioning of orders for resale is commercially

reasonable and nondiscriminatory unless it compares its delivery of services to CLEC end users with its actual delivery of services to its own end users. The critical issue here is whether NYT is providing CLECs with nondiscriminatory use of its OSS systems, not whether it is meeting minimally acceptable service standards. This question can only be answered through the use of carrier-to-carrier metrics.

It is also critical that NYT establish a comparable date for the beginning of this measurement. For its own orders, NYT measures the completion from the automated acknowledgment of receipt of the order in NYT's systems. In contrast, NYT has informed AT&T that it will not "start the clock" on CLEC orders until after the order is entered into NYT's systems, i.e., after a NYT wholesale service representative manually process the order. This can lead to significant disparities, especially for orders that are left overnight to be processed the next business day. In such cases, there is a high likelihood that the installation date on the order (which was available at the time the order was submitted) will no longer be available at the time of next-day entry. This will lead to a rejection of the order in NYT's systems (because it requests an unavailable installation date). Even under the best of circumstances, this means that the measurement "clock" for the CLEC will not start to run until (i) the CLEC re-contacts the customer

and establishes a new installation date; (ii) the CLEC re-submits an order to NYT; (iii) a NYT wholesale representative inputs the order a second time, and (iv) NYT's systems accept the order. Therefore, the appropriate time to begin measuring order completion for the CLEC is the time at which it initially submits a correct order to NYT.

Q. ARE THERE ADDITIONAL DEFICIENCIES IN NYT'S PROPOSALS?

A. Yes. In his discussion regarding maintenance functions, Mr. Coffey (p. 9) indicates that NYT only intends to track the duration of customer outages by measuring lines out of service for more than 24 hours. This is commercially unreasonable. The appropriate measurement is the customer-affecting time of all significant outages, which should be defined as outages of 4 or more hours. Thus, it is necessary for NYT to report data on its time to repair such conditions. Moreover, such data should be provided in 4-hour increments and NYT should indicate whether or not the outage was cleared as the result of the dispatch of service personnel. In addition, in order to demonstrate that its treatment of all carriers is nondiscriminatory, NYT should report the mean time to restore all outages, and compare its restoration times for its own retail customers with the restoration time for resellers' customers.

Q. WHAT IS YOUR OPINION OF THE ITEMS NYT INTENDS TO MEASURE FOR UNBUNDLED NETWORK ELEMENTS, AS SET FORTH IN EXHIBITS 2 AND 3 TO MR. COFFEY'S AFFIDAVIT?

A. AT&T agrees with NYT that it is appropriate to develop measurements which compare NYT's provisioning of POTS services with its provisioning of certain combinations of unbundled elements. Indeed, the Commission's November 29, 1996 order in the AT&T/NYT arbitration proceeding required the parties to establish specific DMOQs on many aspects of the ordering and provisioning of UNEs. However, the items measured in the exhibits to the Coffey affidavit fail to identify many of the factors that need to be measured, including specific factors awarded in the AT&T arbitration.

Accordingly, Exhibit 2 should be expanded to cover other situations. For example, NYT should also compare its provisioning of CENTREX orders with its provisioning of UNEs that a CLEC uses to provide its end users with a similar offering. In addition, Exhibit 3 should be expanded beyond its current limited scope to include all UNEs and UNE combinations.

V. Other Issues

Q. HAS NYT PROVIDED AT&T ADEQUATE ACCESS TO ITS DIRECTORY ASSISTANCE DATABASES?

A. No. NYT grants access to its DA databases only in a "read-only" format -- as NYT's witnesses acknowledge. Garzillo Aff., ¶ 49; Butler Aff., ¶ 90. NYT will not provide CLECs with access to its DA databases via magnetic tape or electronic format feeds, even though the FCC requires NYT to do so. 47 C.F.R. § 51.217(c)(3)(ii). This

is unacceptable to AT&T, which has requested this information via magnetic tape or electronic format.

Q. WHY DOES AT&T NEED ACCESS TO NYT'S DATABASES IN MAGNETIC TAPE OR ELECTRONIC FORMATS?

A. Access to NYT's databases is necessary to enable AT&T to develop, maintain, modify, and keep current its own DA services and databases. The "read-only" format effectively prevents AT&T from developing its own DA databases and services, which NYT is able to do for itself.

Q. IS NYT PROVIDING CLECs WITH NONDISCRIMINATORY ACCESS TO TELEPHONE NUMBERS FOR ASSIGNMENT TO THE CLECS' CUSTOMERS?

A. NYT is not providing parity access to telephone numbers. Specifically, NYT electronically provides its own retail sales representatives with three possible numbers to offer any NYT retail customer for its new line or lines. By contrast, NYT electronically provides CLEC representatives with only one possible number at a time to offer to a new CLEC customer.


Q. WHAT IMPACT DOES THIS DIFFERENCE HAVE ON A CLEC?

A. It makes a CLEC's service representative appear less responsive to the customer. If, for whatever reason, the customer does not want the number that the CLEC representative offers, the CLEC representative must respond either that there is no other choice or that the CLEC will need to investigate whether another number can be assigned. Similarly, if a customer has a service order request for two

or three lines, the NYT representative can provide all two or three numbers at once; by contrast, the CLEC representative would have to submit a separate query for each number.

Q. DOES THIS CONCLUDE YOUR STATEMENT?

A. Yes it does.



---

Michael M. Hou





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April 22, 1997

**VIA FACSIMILE**

Stuart Kupinsky, Esq.  
U.S. Department of Justice  
Judiciary Center Bldg.  
Antitrust Division, Telecommunications Task Force  
555 4<sup>th</sup> Street, N.W.  
Washington, D.C.

Dear Stuart:

In response to your question of whether AT&T has taken steps to reduce its marketing efforts in response to the backlog of orders AT&T is experiencing as well as other serious deficiencies in Pacific Bell's OSS, the answer is definitely yes. As you will see from the attached Testimony of Stephen Huels, filed in our OSS complaint proceeding against Pacific Bell at the California PUC, AT&T stated on the record that it suspended consumer outbound telemarketing programs on March 26, 1997 (see page 6). As this statement was made in a public proceeding, we are not troubled by your use of such information in any document that might be made publicly available. Although we had hoped to resume our consumer outbound telemarketing efforts by mid-April, the continued high backlog of orders at Pacific has forced AT&T to continue to place its consumer outbound telemarketing efforts on hold. We do consider this information about not knowing when we will resume such marketing to be proprietary and confidential, and request that this information not be publicly disclosed.

Due to the OSS problems identified above, AT&T also ceased running its local service television advertising in California on April 18, 1997. Although we have not publicly stated this, we do not object to your use of this information in any document that might be made publicly available as it is similar to the information which we have already placed on the record in the OSS complaint proceeding.

If you have any additional questions regarding this matter, please feel free to call me at 908-221-8139 or Betsy Brady.

Sincerely,

Karen Itzkowitz

- Contains AT&T Proprietary and Confidential Information -



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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

MCI Telecommunications  
Corporation (U 5011 C),

Complainant,

v.

Pacific Bell (U 1001 C),

Defendant.

Case No. 96-12-026

AT&T Communications of  
California, Inc. (U 5002 C),

Complainant,

v.

Pacific Bell (U 1001 C),

Defendant.

Case No. 96-12-044

New Telco, L.P., d/b/a Sprint  
Telecommunications Venture  
(U 5552 C) and Sprint  
Communications Company L.P.  
(U 5122 C),

Complainants,

v.

Pacific Bell (U 1001 C),

Defendant.

Case No. 97-02-021

TESTIMONY OF STEPHEN HUELS

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**TESTIMONY OF STEPHEN HUELS**

1

2

3 Q. Please state your name, business address, occupation, work experience  
4 and education.

5 A. My name is Stephen Huels. My business address is 795 Folsom Street,  
6 San Francisco, CA 94107.

7 I am the Business Planning Director for AT&T's Pacific Region Local  
8 Services Organization. I am responsible for the Pacific Region's (California,  
9 Nevada and Hawaii) overall business planning processes and the negotiation  
10 and management of the Interconnection Agreements with Pacific Bell (Pacific)  
11 and GTEC.

12 I joined AT&T in 1979 and have held assignments in network  
13 engineering and planning, access vendor management, corporate finance,  
14 marketing, and sales. My academic background includes an undergraduate  
15 degree in business administration with majors in accounting and finance, and  
16 graduate work in finance, marketing and technology management. I am a  
17 Chartered Financial Analyst (CFA),

18 Q. What is the purpose of your testimony?

19 A. My testimony addresses the harms caused by Pacific's failure to create  
20 adequate pre-ordering and ordering and maintenance processes and supporting  
21 operational systems to adequately support AT&T's and other competitive local  
22 carriers' (CLCs') local service orders.

1 Q. Please describe those failures by Pacific and the harms caused to  
2 AT&T.

3 A. Using the currently-deployed Pacific processes, AT&T orders experience  
4 a number of manual steps within the Pacific order provisioning procedures.  
5 This has led, and continues to lead, to high rates of AT&T orders provisioned  
6 in error and to very long service provisioning intervals.

7 AT&T's California consumers and businesses are experiencing  
8 provisioning intervals (time to get service installed) that are up to three to four  
9 times longer than the intervals experienced by Pacific's retail customers. This  
10 condition requires AT&T to quote its customers 10 to 15 day provisioning  
11 intervals to compensate for the significant order backlog AT&T currently has  
12 with Pacific. On April 3, 1997, AT&T had over 11,500 orders backlogged in  
13 the Pacific provisioning process. Using the currently-deployed Pacific  
14 processes, AT&T has no ability to schedule installation appointment times and  
15 dates when a customer calls to order local service, while Pacific's retail  
16 operations have this capability on a real-time basis.

17 As detailed in Ms. Collier's testimony, both business and residential  
18 AT&T local service customers have had their service disconnected for varying  
19 periods of time. These disconnections are occurring at the critical period of  
20 AT&T's launch of its local service offering in California. Obviously, this  
21 problem could cause customers to question the quality of AT&T's service.

1           AT&T's California customers are also experiencing high rates of error in  
2           the provisioning of service. These errors include features not installed as  
3           ordered, features installed that were not ordered, and hunting features not  
4           installed correctly. As of April 6, 1997, there were over 3,100 unresolved  
5           discrepancies between AT&T orders and Pacific order completion reports. The  
6           result of these errors has been damage to the AT&T brand image.

7           The huge order backlog also impairs AT&T's ability to issue additional  
8           service orders on an AT&T customer account. If an AT&T customer order is  
9           "stuck" in the backlog, changes to the order, or additions to the order, or even  
10          cancellations of the order cannot be properly processed. This condition is  
11          causing additional order completion errors and contributing to AT&T customer  
12          dissatisfaction.

13          AT&T's customer orders have to be manually entered into the Pacific  
14          directory assistance data base. Errors in this process have meant that AT&T  
15          customers are not correctly entered into the data base or are not entered at  
16          all.

17          AT&T's customer orders have to be manually entered by Pacific into the  
18          411 directory listing data base. This has meant that some customers have  
19          been excluded from or have not been correctly listed in Pacific's 411 data  
20          base.

21          Because of Pacific's failure to provide timely firm order confirmations  
22          (FOC), AT&T is unable to promptly notify business customers of changes in

1 service installation intervals. This occurs because Pacific will often unilaterally  
2 change the requested service installation due date to a different date. Without  
3 a FOC communicating this information, AT&T is unable to inform business  
4 customers of this fact.

5 Because of Pacific's failure to provide timely completion notifications,  
6 AT&T is unable to start billing its customers on the same date which Pacific  
7 starts to bill AT&T for the wholesale service. AT&T does not start billing its  
8 customers until the date the service is actually installed.

9 Pacific's failure to provide customer service record (CSR) information to  
10 AT&T unedited is also hampering AT&T's ability to provide quality service to  
11 its customers. Whenever AT&T has a valid letter of authorization from the  
12 customer, AT&T has the right to obtain the CSR from Pacific. Pacific censors  
13 the information it returns to AT&T. Some of the information being censored  
14 related to the customer's choice of long-distance carrier, the customer's listing  
15 information, the fact that the customer was presently subscribing to Pacific  
16 voice mail, and the fact that the customer was subscribing to the inside wire  
17 maintenance plans of Pacific. These omissions from the Pacific CSRs caused,  
18 and continue to cause, provisioning problems for AT&T customers. Without  
19 this provisioning information, AT&T can inadvertently order the service  
20 without all of the services or features the customer had and expected to still  
21 have after migrating from Pacific.

1 Q. To your knowledge, are the problems caused by the Pacific failures you  
2 described unique to AT&T?

3 A. No. It is my understanding that all CLCs have suffered from the same  
4 Pacific failures. This is evidenced by the fact that in addition to AT&T, both  
5 MCI and Sprint have filed formal complaints and that a number of smaller  
6 CLCs have intervened in the consolidated complaint.

7 Q. What has AT&T done to try to mitigate the harm caused by Pacific?

8 A. Because of the high level of backlogged orders, AT&T suspended  
9 consumer outbound telemarketing programs on March 26, 1997. This action  
10 was taken to prevent further harm to the AT&T brand caused by poor  
11 provisioning performance by Pacific. Throughout January and February, AT&T  
12 had been significantly reducing its marketing efforts below planned levels  
13 because of the continually growing order backlog.

14 Q. Have the Pacific failures you described caused any other reactions by  
15 AT&T?

16 A. Yes. Because of the low level of volumes which Pacific can process,  
17 AT&T has had to revise downward its forecasted revenue and volume for  
18 California.

19 Q. Does this complete your testimony?

20 A. Yes.

21



*Illinois Proposed Order*

**STATE OF ILLINOIS**

**ILLINOIS COMMERCE COMMISSION**

*Illinois Commerce Commission* :  
*On Its Own Motion* :  
: 96-0404  
*Investigation concerning* :  
*Illinois Bell Telephone* :  
*Company's compliance with* :  
*Section 271 (c) of the Telecom-* :  
*munications Act of 1996.* :

**HEARING EXAMINER'S PROPOSED ORDER**

*March 6, 1997*

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96-0404

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STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission: :  
On its Own Motion : : 96-0404  
Investigation concerning Illinois Bell Telephone :  
Company's compliance with Section 271© of the :  
Telecommunications Act of 1996. :

**HEARING EXAMINER'S PROPOSED ORDER**

By the Commission:

**I. INTRODUCTION**

On August 26, 1996, we issued our Order Initiating Investigation ("OII") commencing this docket. As stated in the OII, this docket was initiated to gather information regarding the compliance of Illinois Bell Telephone Company, d/b/a Ameritech Illinois ("Ameritech"), with Section 271(c) of the federal Telecommunications Act of 1996 ("Act"), 47 U.S.C. § 271(c). The purpose for gathering this information is to fulfill our consulting role with the Federal Communications Commission ("FCC") under Section 271(d)(2)(B) when Ameritech applies for FCC authorization to provide in-region interLATA telecommunications services.

Toward this end, we attached as Appendix A to our OII a list of thirty questions/areas of inquiry that we directed the parties to address in this docket. Because much of the information that we seek is in the possession of Ameritech or other telecommunications service providers to whom we have granted certificates of service authority under Section 13-405 of the Illinois Public Utilities Act ("IPUA"), we named as parties to this docket all such certificated service providers. Specifically, we made Ameritech and the following service providers parties to this docket: AT&T Communications of Illinois, Inc. ("AT&T"); A.R.C. Networks, Inc.; Ameritech Advanced Data Services of Illinois, Inc.; Consolidated Communications Telecom Services, Inc. ("CCT"); Diginet Communications Inc. - Midwest Digital Services Corporation, d/b/a Virginia Digital Services Corp.; LCI International Telecom Corp.; MCI Telecommunications Corporation and MCI Metro Access Transmission Services, Inc. (collectively "MCI"); McLeod Telemanagement, Inc.; MFS Intelenet of Illinois, Inc. ("MFS"); Microwave Services, Inc.; One Stop Communications, Inc.; Preferred Carrier Services, Inc.; SBMS Illinois Services, Inc.; Sprint Communications L.P., d/b/a Sprint Communications Company ("Sprint"); TCG Illinois, Inc. ("TCG"); TCI Telephony Services of Illinois, Inc.; Telefiber Networks of IL, Inc.; U.S. OnLine Communications L.L.C.; USN Communications, Inc. ("USN"); Winstar Wireless of Illinois, Inc.; and Worldcom, Inc.

Pursuant to notice, as required by law and the rules and regulations of the Commission, pre-hearing conferences were held before a duly-authorized Hearing Examiner of the Commission at its Chicago offices on September 11, October 1, October 4 and December 2, 1996. The following parties petitioned for and were granted leave to intervene by the Hearing Examiner: the Illinois Telephone Association ("ITA"); the Illinois Independent Telephone Association ("IITA"); the Illinois Attorney General on behalf of the People of the State of Illinois ("IAG"); the

**H.E PROPOSED ORDER**

Telecommunications Resellers Association ("TRA"); Consolidated Communications, Inc.; the Competitive Telecommunications Association ("CompTel"); the Citizens Utility Board ("CUB"); the Cable Television and Communications Association of Illinois; and Access Network Services, Inc. ("Access"). The Illinois Commerce Commission Staff ("Staff") also appeared and actively participated in this docket.

Evidentiary hearings were held on January 13-17 and January 21, 1997. At the conclusion of the latter hearing, the record was marked Heard and Taken.

Messrs. David Gebhardt, John Gregory Dunny, Wayne Heinmiller, Scott Alexander, Ramont Bell, John Pautlitz, Warren Mickens, and Joseph Rogers and Ms. Lisa Robertson filed testimony on behalf of Ameritech.

Testimony was filed on behalf of the Staff by Ms. Charlotte TerKeurst, Mr. Jake Jennings, Ms. Stacy Buecker, Mr. S. Rick Gasparin, Mr. Samuel McClerren and Mr. Sam E. Tate.

Testimony on behalf of AT&T was filed by Messrs. John Puljung, Wayne Fonteix, Robert Falcone, Michael Pfau, William Lester, Timothy Connolly, and Mr. Michael Starkey, and Ms. Judith Evans.

Testimony on behalf of MCI was filed by Mr. Carl Giesy.

Testimony on behalf of Sprint was filed by Ms. Betty L. Reeves and Dr. Carl Shapiro.

Testimony on behalf of CompTel was filed by Mr. Joseph Gillan.

Testimony on behalf of MFS was filed by Ms. Ruth Durbin.

Testimony on behalf of CCT was filed by Mr. Scott Jennings.

Before turning to a discussion of the information presented by the parties and Staff and the conclusions that we deduce from that information, it is important to recognize the unique nature of this docket. The purpose of this docket is not to adjudicate the rights of any party per se. Rather, as noted above, the purpose of this docket is to gather information regarding Ameritech's compliance with Section 271(c) in order to fulfill our consulting role with the FCC under Section 271(d)(2)(B) of the Act.

While our information-gathering mission is primarily factual in nature, we note that there is little, if any, dispute between the parties regarding the underlying facts presented in this docket. Many of the core disputes in this docket involve legal issues regarding the interpretation, and application to the record facts, of the provisions of Section 271(c). We acknowledge, of course, that the determination of how Section 271(c) should be interpreted and applied is ultimately within the FCC's domain, and not ours. However, in order to provide the FCC with meaningful and timely comments as part of our consulting role, and in the absence of any prior pronouncements by the FCC regarding how Section 271(c) should be interpreted and applied, we cannot avoid addressing certain of these legal issues, even if our conclusions on these issues are non-binding.

96-0404

## H.E PROPOSED ORDER

**II. LEGAL ISSUES REGARDING INTERPRETATION AND APPLICATION OF SECTION 271(c)****A. SECTION 271 REQUIREMENTS IN GENERAL**

Section 271(a) provides that neither a Bell Operating Company ("BOC") nor any affiliate of a BOC may provide interLATA services except as provided in Section 271. 47 U.S.C. §271(a). Section 271(b)(1) provides that a BOC, or any affiliate of that BOC, may provide interLATA services originating in any of its in-region States if the FCC approves the application of such company under Section 271(d)(3). 47 U.S.C. §271(b)(1). Section 271(d)(1) authorizes a BOC or its affiliate to apply to the FCC on or after the date of enactment of the 1996 Act for authorization to provide interLATA services originating in any in-region State. 47 U.S.C. §271(d)(1).

Under Section 271(d)(3), the FCC must issue a written determination and state the basis for approving or denying the requested authorization within 90 days after receiving an application under Section 271(d)(1). 47 U.S.C. §271(d)(3). Section 271(d)(3) also provides that the FCC shall not approve the authorization requested in a Section 271(d)(1) application unless it finds that:

(A) the petitioning Bell operating company has met the requirements of subsection (c)(1) and--

(i) with respect to access and interconnection provided pursuant to subsection (c)(1)(A), has fully implemented the competitive checklist in subsection (c)(2)(B); or

(ii) with respect to access and interconnection generally offered pursuant to a statement under subsection (c)(1)(B), such statement offers all of the items included in the competitive checklist in subsection (c)(2)(B);

(B) the requested authorization will be carried out in accordance with the requirements of section 272; and

(C) the requested authorization is consistent with the public interest, convenience, and necessity.

47 U.S.C. §271(d)(3).

Section 271(d)(2)(B) requires the FCC to "consult with the State commission of any State that is the subject of the application in order to verify the compliance of the Bell operating company with the requirements of subsection (c)." 47 U.S.C. §271(d)(2)(B) (emphasis added). Thus, the explicit role of the Commission in an application by Ameritech for the FCC to authorize it to provide in-region interLATA services under Section 271(d)(1) is to "consult" with the FCC so as to verify whether Ameritech has complied with the requirements of Section 271(c). Section 271(d)(2)(A) requires that the FCC also notify and consult with the Attorney General regarding any application under Section 271(d)(1). 47 U.S.C. §271(d)(2)(A). The United States Department of